

APPENDIX A - HISTORICAL TIMELINE

**FEDERAL COMMUNICATIONS COMMISSION
STATUTORY, REGULATORY AND HISTORICAL TIMELINE
1950-Present**

CATEGORY	EVENT	DATE
Primary Market: Comparative Hearings	✓ As a result of <u>Ashbacker Radio Corp. v. FCC</u> , 326 U.S. 327 (1945), the FCC was required to hold comparative hearings for mutually exclusive applications. The Supreme Court held that “[w]here the Federal Communications Commission has before it two applications for broadcasting permits which are mutually exclusive, it may not, in view of the provisions of the Act for a hearing where an application is not granted upon examination, exercise its statutory authority to grant any applications upon examination without a hearing. . . .”	1945
	✓ The <u>Policy Statement on Broadcast Comparative Hearings</u> , 1 F.C.C. 2d 393 (1965) articulated and clarified the criteria used in the comparative hearings for assigning licenses. The seven (7) areas for which applicants received credit (or “points”) were: diversification of control, integration of ownership into management, proposed program service, past broadcast record, efficient use of frequency, character, and other significant and relevant factors to be considered in the decision-making process.	1965
	✓ Comint Corp. challenged the FCC’s refusal to explicitly consider race in the comparative hearing process (in which Mid Florida Corp. was awarded the license) and appealed the FCC ruling to the D.C. Court of Appeals. Comint argued that minority ownership should be given comparative credit on the basis of the 1965 Policy Statement on Broadcast Comparative Hearings. The FCC noted that “the Communications Act . . . is color blind and therefore, in a comparative broadcast proceeding . . . Black ownership cannot and should not be an independent comparative factor . . .”	1965

CATEGORY	EVENT	DATE
Primary Market: Comparative Hearings (continued)	✓ In the 1974 <u>TV 9 Inc. v. FCC</u> decision, the DC Court of Appeals reversed the result of the <u>Mid Florida</u> comparative hearing. The Court concluded that minority stock ownership is “a consideration relevant to a choice among applicants of broader community representation and practicable service to the public. ... We hold only that when minority ownership is likely to increase diversity of content, especially on opinion and viewpoint, merit should be awarded.” This decision set a new precedent for the incorporation of minority participation as a factor in the comparative hearing process.	1974
	✓ In <u>Rosemore Broadcasting, Co.</u> (1975), the FCC held that integrated female ownership should be awarded credit in comparative hearings because women, like minorities, are “likely to increase diversity of content.” The FCC went on to state that female participation in an application can be given credit when it “reflects broader community representation.”	1975
	✓ <u>Garrett v. FCC</u> (1975) finds that minority ownership/participation is connected to providing programming responsive to the needs of the minority community.	1975
	✓ In the 1977 <u>Flint Family Radio</u> decision, the FCC clarified the primacy of importance of both minority ownership and the participation of these owners in station affairs. “... the Supplemental Opinion of the Court makes it quite clear that the two essential elements necessary to receive merit are Black ownership and participation by these owners in station affairs.”	1977
	✓ 1978 Statement of Policy on Minority Ownership of Broadcasting Facilities formalized the use of minority and gender credits in the comparative hearing process. In 1990 the FCC declined to extend enhancement credits for minority ownership under diversification of ownership criterion.	1978
	✓ A Review Board hearing the Gainesville Media, Inc. case concluded the “. . . merit for female ownership and participation is warranted upon essentially the same basis as the merit given for Black ownership and participation, but that it is a merit of lesser significance.” This decision demonstrated that credit should be applied for female participation in a broadcast license application, but that credit would not be as significant as that credit applied for minority participation.	1978

CATEGORY	EVENT	DATE
Primary Market: Comparative Hearings (continued)	✓ The FCC articulated and explained its renewal expectancy for incumbent broadcasters in license renewal comparative hearings in <u>Cowles Broadcasting, Inc. (WESH-TV)</u> [affirmed <u>Central Florida Enterprises, Inc. v. FCC</u> (1982)].	1981
	✓ Financial qualifications changed from having to <i>prove</i> financial viability to having only to <i>sign a certificate</i> that the applicant was able to meet the financial requirements.	1982
	✓ Until 1986, the term "character" (as a criterion for license assignment) was often interpreted as moral character. On January 14, 1986 the Commission issued its Policy Regarding Character Qualifications in Broadcast Licensing, outlining which character issues should be considered and how they were to be investigated. The issues to be considered involved various acts of fraud, misconduct, misrepresentation, and abuse in commercial and government dealings as well as criminal conviction. Eventually, character issues were eliminated as a comparative criterion but were kept as a basic criterion.	1986
	✓ The Policy Regarding Character Qualifications in Broadcast Licensing, 5 F.C.C.R. 3252 (1990) made certain modifications to FCC policies regarding character qualifications because the previous policy statement "took an overly narrow view of the range of misconduct that should be relevant in licensing decisions covered by it."	1990
	✓ The decision in the <u>Bechtel v. FCC</u> case (1993) had the effect of freezing comparative hearings.	1993
	✓ The Telecommunications Act of 1996 eliminated the role of comparative hearings in the renewal of broadcast licenses.	1996

CATEGORY	EVENT	DATE
Primary Market: Lotteries	✓ Section 309(i) of the Act granted FCC authority to use lotteries to choose among mutually exclusive applications. Used to award wireless licenses for cellular, Specialized Mobile Radio, Multi-channel Multi-point Distribution Services, and Low Power TV. Congress enacted legislation that caused this section to expire on July 1, 1997.	1982
	✓ Section 390(i) of the Act required the FCC to establish incentives, rules and procedures providing credit for minority-controlled applicants in awarding licenses. Congress enacted legislation that caused this section to expire July 1, 1997.	1982
	✓ In the Lottery Second Report and Order the FCC authorized minority ownership policies for Low Power TV lotteries.	1983
	✓ The 1993 Omnibus Budget Reconciliation Act limited the use of lotteries to the allocation of non-commercial licenses and authorized a competitive bidding system (auctions) to distribute commercial licenses.	1993
Primary Market: Auctions	✓ The Omnibus Budget Reconciliation Act of 1993 (which added Section 309(j) to the Communications Act of 1934) authorized the FCC to allocate licenses through a competitive bidding process (auctions). Initially the auctions were used only for wireless.	1993
	✓ Section 309(j)(3)(B) instructed the FCC to establish competitive bidding procedures that would “disseminat[e] licenses among ... small businesses ... and businesses owned by members of minority groups and women.”	1993
	✓ 1993 Auction Notice of Proposed Rulemaking determined that race- or gender-conscious remedies must meet the intermediate standards of judicial scrutiny; i.e., the remedy must be substantially related to serve a significant governmental interest.	1993

CATEGORY	EVENT	DATE
Primary Market: Auctions (continued)	✓ A 25% bidding credit was made available to women and minority businesses for selected nationwide and regional PCS and Interactive Video and Data Services narrowband auctions. (The <u>Adarand Constructors v. Pena</u> case (1995) held that any federal program or policy which uses race as a basis for its decision-making must withstand strict judicial scrutiny. Post <u>Adarand</u> , the bidding credits were made available to small businesses without distinction for race or gender.)	1994
	✓ The bidding credits for women and minority businesses increased to 40% in two of six auction spectrum blocks in the regional narrowband auctions. Post <u>Adarand</u> , the credits were made available to small businesses without distinction for race or gender.	1994
	✓ The Commission established an installment payment program (for down payments on licenses) and interest rates for small, minority- and women-owned businesses bidding for the basic trading area, major trading area, and regional narrowband licenses. Post <u>Adarand</u> , the small business credits were made available without distinction for race or gender. The FCC has not extended the installment payment program to auction participants since the C and F Block auctions.	1994
	✓ The Competitive Bidding Fifth Report and Order set aside PCS broadband Auction Blocks C and F for designated entities on the basis of their status as minorities, women, small businesses, or rural telephone companies ("Entrepreneurs Blocks").	1994
	✓ The Competitive Bidding Fifth Report and Order established rules concerning passive non-voting investors, affiliation, additional bidding credits, tax certificates (for initial investors in minority- and women-owned businesses – later dropped after Congress eliminated the tax certificate program in 1995), and installments plans were adopted to enhance opportunities for businesses owned by women and minorities. There was a four-tier range of bidding credits, with the most favorable bidding credits being given to businesses that were small, women-owned and minority-owned.	1994

CATEGORY	EVENT	DATE
Primary Market: Auctions (continued)	✓ The FCC eliminated all race- and gender-based provisions in competitive bidding for the C and F Block auctions. Credits that were available only to members of minority groups and women were now made available to all small businesses.	1995
	✓ The Balanced Budget Act of 1997 expanded the FCC's competitive bidding authority under Section 309(j) to include mutually exclusive initial license applications for certain types of broadcast licenses. On November 26, 1997, the Commission released a Notice of Proposed Rulemaking proposing general competitive bidding procedures for all auctionable broadcast services within the scope of the amended 309(j), with certain exceptions. This Act also required the FCC to promote "economic opportunity for a wide variety of applicants, including businesses owned by members of minority groups and women."	1997
	✓ On August 18, 1998, the Commission released its First Report and Order setting forth procedures governing auctions of broadcast service licenses.	1998
	✓ The first broadcast auction (the Bechtel auction) was completed in October 1999.	1999
Secondary Market: Tax Certificates	✓ The 1978 Statement of Policy on Minority Ownership Broadcast Facilities created the Tax Certificate program which provided tax deferral benefits to the seller of a media property if it was sold to a minority business. The tax certificate policy encouraged and promoted minority ownership by giving sellers a two-year like-kind-transfer tax deferral for the sale of licenses to minorities if the proceeds were reinvested in a similar communication property.	1978
	✓ Congress repealed the tax certificate program (due to allegations of abuse) with the passing of the Self-Employed Persons Health Care Deduction Extension Act of 1995.	1995
Secondary Market: Distress Sales	✓ The 1978 Broadcast Policy Statement created the Distress Sale policy which allowed for license owners that were under scrutiny by the FCC (and under threat of license revocation) to sell their station to a minority for 75% of the appraised value. In return, the FCC would cease its inquiry into the suspect license owner. Post <u>Adarand</u> , the FCC has not utilized the distress sale policy.	1978

CATEGORY	EVENT	DATE
Secondary Market: Anti-Trafficking Rules	✓ The three-year trafficking rule applied to an FCC grant of a construction permit or an assignment or transfer by the FCC. If in requesting a grant of FCC approval for a transfer or assignment, it appeared that the licensee held the license for less than three years, the FCC would designate the transfer or assignment for hearing to determine whether the proposed transfer or assignment was in the public interest. The three-year rule did not prohibit someone from transferring or assigning within the three-year period, but it did make it more difficult to do so.	
	✓ The one-year trafficking rule replaced the prior three-year anti-trafficking rule. The one-year rule required the retention of a license acquired through the comparative hearing process or the minority ownership process (i.e., distress sales, tax certificates and comparative hearings) for at least one year, unless it was sold to another minority. Persons who acquired the license from non-minorities in the secondary market were not regulated by the one-year anti-trafficking rule.	
Statutory and Regulatory Developments (not highlighted elsewhere)	✓ The 1969 Non-Discrimination Employment Policy Statement forbade discrimination on the basis of race, color, religion or national origin in employment practices by licensees of commercial or noncommercial broadcast stations. Result: each station had to establish an equal employment opportunity program. This was the first time the FCC directly addressed the issue of race in a formal policy ruling. This Policy Statement established the Commission's right to revoke licenses and to hear allegations of EEO violations in comparative hearings.	1969
	✓ In 1970, the FCC adopted its "one to a customer rule" whereby licensees could have only one AM, FM, and TV license in a given market. (See charts below for more detailed information on ownership rules.)	1970
	✓ In 1971, the FCC modified the ownership rules to allow AM/FM combinations and radio-UHF combinations in the same market; only VHF/radio combinations were banned by the rules.	1971

CATEGORY	EVENT	DATE
Statutory and Regulatory Developments (not highlighted elsewhere – continued)	✓ In 1979 the World Administrative Radio Conference expanded the AM band in the Western Hemisphere. The FCC used the expanded band to reduce congestion in the existing band by allowing existing AM licensees to operate new stations in the expanded band, and then after a transition period, shut down the old stations. The FCC limited the entire expanded band to these existing migrating stations. (1991) Several civil rights groups proposed that the existing broadcasters be offered tax certificates to sell existing (to-be-shut-down) stations to minorities. The FCC rejected this proposal and held that improving congestion was its primary goal. (1993)	1979 1991 1993
	✓ In its 1984 Memorandum Opinion and Order, the FCC declined to extend minority ownership policies to common carrier services.	1984
	✓ In 1986 the FCC initiated a Notice of Inquiry on the topic of race and gender ownership and employment policies in the awarding of broadcast licenses (Reexamination of the Commission's Comparative Licensing, Distress Sales, and Tax Certificate Policies Premised on Racial, Ethnic, or Gender Classifications). To ensure that those policies were not eliminated, Congress included provisions in the Commission's appropriations bills from 1988 to 1994 to prohibit the Commission from expending funds on any initiative designed to eliminate the broadcast minority ownership policies.	1986
	✓ In 1988, the FCC announced that it would be inclined to grant waivers to the one-to-a-market ownership rule in those top 25 markets that had at least 30 broadcast voices.	1988
	✓ <u>City of Richmond v. J.A. Croson</u> requires a strong basis in evidence of discrimination for any state or local government conclusion that race-conscious remedial action is necessary. The Court ruled that the government cannot rely on general societal discrimination to make its case. Instead, the government must establish that it is remedying either its own discrimination or discrimination in the private sector in which the government has become a "passive participant."	1989

CATEGORY	EVENT	DATE
Statutory and Regulatory Developments (not highlighted elsewhere – continued)	✓ In <u>Metro Broadcasting, Inc. v. FCC</u> (1990) the Court, applying intermediate scrutiny, upheld the constitutionality of the FCC's distress sale and comparative hearing minority ownership policies. The Court stated that the policies served the important governmental interest of promoting diversity in broadcast programming. The Court found that the benefits of programming diversity are shared by two groups – minorities who gain access to the broadcasting industry through ownership and "the American public [who] will benefit by having access to a wider diversity of informational sources." Second, the Court found that a causal link exists between minority ownership and broadcast diversity and therefore that the minority ownership policies were substantially related to the achievement of the desired end.	1990
	✓ In 1992, the FCC relaxed the duopoly rules so that in markets with fewer than 15 radio stations, licensees were permitted to own up to three stations as long as the number owned was less than 50 percent of the total number of stations in the market. In markets with 15 or more stations, the licensees were permitted to own up to four stations; no more than two could be of the same service, and there was an audience share cap of twenty-five percent.	1992
	✓ The 1993 Omnibus Budget Reconciliation Act contained specific language delegating to the Commission the authority to devise rules to ensure diversity in license ownership. More specifically, the FCC was instructed to ensure that women and minorities have the opportunity to participate in the provision of spectrum-based services.	1993
	✓ In the <u>Bechtel v. FCC</u> decision, the D.C. Circuit Court found that the "continued application of the integration [of ownership, management and programming] credit is arbitrary and capricious, and therefore unlawful." By invalidating the integration credit the court effectively eliminated gender and race ownership and employment policies associated with the integration credit. In 1994 the FCC suspended all active comparative hearings until an adequate resolution to the issues raised in <u>Bechtel</u> could be formulated.	1993 1994

CATEGORY	EVENT	DATE
Statutory and Regulatory Developments (not highlighted elsewhere – continued)	✓ In <u>Adarand Constructors, Inc. v. Peña</u> the Court ruled that any federal program or policy which uses race as a basis for its decision-making must withstand strict judicial scrutiny. It is not clear whether the diversity rationale that survived the intermediate scrutiny standard of <u>Metro</u> would survive the strict scrutiny standard of <u>Adarand</u> .	1995
	✓ Section 257 (added to the Communications Act of 1934 by the Telecommunications Act of 1996) requires the FCC to eliminate market entry barriers for entrepreneurs and other small businesses.	1996
	✓ In the Telecommunications Act of 1996, Congress directed the FCC to further relax the duopoly rules so that licensees in markets with 45 or more commercial radio stations can “own, operate or control up to 8 stations, not more than 5 of which are in the same service.” In markets with between 30 and 44 stations, the limit is seven stations, “not more than 4 of which are in the same service.” In markets with between 15 and 29 stations, the limit is six stations, of which not more than 4 are in the same service. In markets with 14 or fewer stations, the limit is five stations with not more than three in the same service, except that a party may not own, operate or control more than 50 percent of the stations in such market. Furthermore, the Act eliminated all limits on the number of radio stations that one licensee can own nationally, eliminated the numerical cap on television stations and increased the national audience reach cap to 35% for TV.	1996
	✓ The Telecommunications Development Fund (“TDF”) was authorized by the 1996 Telecommunications Act to provide a source of loans and investment capital to small communications businesses.	1996
	✓ <u>Lutheran Church – Missouri Synod v. FCC</u> (U.S. Court of Appeals, the District of Columbia Circuit, April 1998) held that certain provisions of the FCC’s broadcast EEO rules were subject to strict scrutiny and unconstitutional. The FCC adopted a Notice of Proposed Rulemaking outlining new rules to further equal employment opportunity in broadcasting in a manner that is consistent with the court’s decision (November 1998). New rules were adopted in January 2000.	1998

CATEGORY	EVENT	DATE
Statutory and Regulatory Developments (not highlighted elsewhere – continued)	✓ On January 20, 2000, the FCC adopted rules creating a new, low power FM (LPFM) radio service. The new LPFM service is to be exclusively noncommercial; there will be no commercial LPFM stations. In addition, current broadcast licensees or parties with interests in other media – cable or newspapers - are not be eligible for LPFM stations.	2000
Historical Events	✓ Mrs. Marie Zimmerman became the first woman to own a radio license.	1922
	✓ Station WDIA-AM in Memphis, Tennessee, became the first radio station to devote all its air time to Black programs.	1947
	✓ Mr. Jesse B. Blayton purchased WERD in Atlanta, Georgia, and became the country's first Black radio station owner.	1949
	✓ First Hispanic radio station went on the air.	mid-1950s
	✓ Mr. Andrew Langston becomes the first African American to participate in a comparative hearing. His license was ultimately awarded in 1974.	1960
	✓ The National Association of Black-Owned Broadcasters (NABOB) was created as an outgrowth of a National Association of Broadcasters (NAB) seminar on minority ownership.	1972
	✓ First Black-owned TV license awarded by FCC to WGPR-TV (owned by the International Free and Accepted Modern Masons, Inc., in Detroit, Michigan.	1973
	✓ Dorothy Brunson became the first African-American woman to own a television station.	1989
	✓ MTDP (Department of Commerce) created ComTrain to provide a management training program for minority owners of commercial radio and television stations.	1993

Local, National and Cross-Ownership Rules
(adapted from KPMG, LLP report: *History of the Broadcast License Application Process*)

Year	Local Market			National Market			Notes
	AM	FM	TV	AM	FM	TV	
1950	1	1	1	7	7	7	National TV: Only 5 can be VHF
1970	1	1	1	7	7	7	Prohibit ownership of radio and TV stations in the same market. Grandfathered existing cross ownership.
1975	1	1	1	7	7	7	Additional prohibition of ownership of TV and newspapers in same market. Grandfathered existing cross ownership.
1985	1	1	1	12	12	12	Local TV: Could add a 2 nd station if it was a satellite of the first. National Radio: Could add 2 additional AM and FM stations if they were controlled by minorities or small businesses. National TV: Could add 2 TV stations if they were controlled by minorities or small businesses. TV stations may reach no more than 25% of the population. UHF received 50% credit in population determination.

Year	Local Market			National Market			Notes
	AM	FM	TV	AM	FM	TV	
1992	15+: 2 (<25% mkt share w/ FM) <15: 2 (3) <50% of stations	15+: 2 (<25% mkt share w/ AM) <15: 2 (3) + <50% of stations	1	18	18	12	<p><i>Local Radio:</i></p> <ul style="list-style-type: none"> ✓ In markets with 15 or more stations, 2 AM/FM, as long as the combined share of audience is less than 25%. ✓ In markets with less than 15 stations, 3 stations with no more than 2 of either AM or FM as long as it was no more than 50% of market's stations. <p><i>National Radio:</i> Could add 3 AM and 3 FM stations if they were controlled by minorities or small business.</p>
1994	Same as 1992	Same as 1992	Same as 1985	20	20	Same as 1985	<p><i>National Radio:</i> Could add 3 AM and 3 FM stations if they were controlled by minorities or small businesses.</p>
1996	45+: 5 (8) 30-44: 4 (7) 15-29: 4 (6) <15: 3 (5)	45+: 5 (8) 30-44: 4 (7) 15-29: 4 (6) <15: 3 (5)	Same as 1985	No limit	No limit	No limit, with exception (see Note <i>National TV</i>)	<p><i>Local Radio:</i></p> <ul style="list-style-type: none"> ✓ In markets with 45+ stations, 8 stations with no more than 5 in either AM or FM. ✓ In markets with 30-44 stations, 7 stations with no more than 4 in either service. ✓ In markets with 15-29 stations, 6 stations with no more than 4 in either service. ✓ In markets with fewer than 15 stations, 5 stations with no more than 3 in either service. <p><i>National TV:</i> No limit as long as the stations did not serve more than 35% of the nation's population. UHF received 50% credit in population determination.</p>

Year	Local Market				National Market		Notes
	AM	FM	TV	AM	FM	TV	
1999	Same as 1996	Same as 1996	See Note <i>Local TV</i>	Same as 1996	Same as 1996	Same as 1996, with exception (see Note <i>National TV</i>)	<p><i>Local TV</i>: 2 TV stations in market if the second stations is financially troubled, not yet built, or is not among the market's 4 top-rated stations at time of purchase <i>and</i> 8 independently-owned TV stations remain. An owner may also control overlapping stations if they are based in different designated market areas.</p> <p><i>National TV</i>: Same as 1996 but in markets where firms own 2 TV stations, don't double count towards 35% of nationwide population limit.</p> <p><i>Cross-Ownership – Local Market</i>:</p> <ul style="list-style-type: none"> ✓ If the market has at least 20 separately owned broadcast, newspaper, and cable "voices," can own 2 TV and 6 radio stations or 1 TV and 7 radio stations. ✓ If the market has at least 10 separately owned broadcast, newspaper, and cable "voices," can own 2 TV and 4 radio stations. ✓ 1 TV and 1 radio allowed everywhere. ✓ TV/newspaper cross-ownership is prohibited.

Minority Ownership of Broadcasting Licenses

A search of the literature provides limited information about minority ownership of broadcasting licenses. Until the commencement in 1994 of the Department of Commerce's National Telecommunications and Information Administration (NTIA) annual studies on minority commercial broadcast ownership in the United States⁴⁶, information about minority ownership was primarily reported in various trade publications. Data for the 1980s proved elusive. The table below presents the information we were able to obtain.

YEAR	INDUSTRY			MINORITIES			%
	TV	Radio	Total	TV	Radio	Total	
1970 ⁴⁷	N/A	N/A	N/A	N/A	13	N/A	N/A
1972 ⁴⁸	700	>7,000	>7,700	0	<20	<20	<0.3%
1973 ⁴⁹	N/A	7,350	N/A	N/A	33	N/A	N/A
1974 ⁵⁰	N/A	N/A	N/A	N/A	<30	N/A	N/A
1978 ⁵¹	N/A	8,500	N/A	N/A	40	N/A	N/A
1994 ⁵²	1,151	9,870	11,021	29	293	322	2.9%
1995	1,155	9,973	11,128	32	311	343	3.1%
1996	1,221	10,191	11,412	38	312	350	3.1%
1997	1,193	10,282	11,475	38	284	322	2.8%
1998	1,209	10,315	11,524	32	305	337	2.9%

⁴⁶ The most recent NTIA study available is for 1997-1998. The 1999-2000 report is currently in progress.

⁴⁷ Supra note 14, p. 244. Numbers are for Blacks only.

⁴⁸ *Broadcasting*, "Coming Through the Front Door of Ownership: A New Direction for Blacks in Broadcasting," October 30, 1972, p. 25. Numbers are for Blacks only.

⁴⁹ Supra note 14, p. 214. Numbers are for Blacks only.

⁵⁰ Id. Numbers are for Blacks only.

⁵¹ *Federal Communications Law Journal*, Krasnow, Erwin G., Fowlkes, Lisa M., The FCC's Minority Tax Certificate Program: Life after Death," May 1999. 51 Fed. Comm. L.J., 671. Numbers are for minorities taken as a group.

⁵² Ownership numbers for the years 1994 through 1998 are contained in the NTIA Minority Commercial Broadcast Ownership in the United States reports for the respective years. Information was collected on ownership in the following four minority groups: Blacks, Hispanics, Native Americans, and Asian Americans. Numbers for television do not necessarily include low power TV.

In contacting prospective interviewees, it became apparent that a number of minorities were no longer station owners. With consolidation in the marketplace, a few former minority group owners have sold their entire holdings of broadcast properties. The 1999-2000 NTIA report on minority ownership is expected to reveal that there are now far fewer minority broadcast owners than existed in 1998.

APPENDIX B - INTERVIEW GUIDE

FCC HISTORICAL STUDY INTERVIEW GUIDE

Subject Name: _____ Interviewee Control #: _____

Entity: _____

INTRODUCTION

Hello, my name is _____, and I'm calling from Ivy Planning Group at our scheduled time to conduct the telephone interview you agreed to have with us about FCC licensing practices. Is this still a convenient time for you? Great. (Note to interviewer: If this is not a good time, please reschedule for another time as close to this one as possible.)

As a reminder, Ivy Planning Group, a management consulting company, has been hired by the Federal Communications Commission to conduct a historical study of what market barriers, if any, small, minority- and women-owned businesses face or have faced in the acquisition, sale or transfer of FCC broadcast and wireless licenses during the years 1950 to the present.

I will be asking you about your experiences with the process of acquiring, selling, or transferring FCC licenses, even if you were not successful in or chose to withdraw from these endeavors. It is my intention not to ask for any information that is proprietary to you or your company.

Our interview has been scheduled to last an hour. It would be helpful not to have any interruptions during our time on the phone so that I can take as little of your time as possible. I will be asking a series of open-ended questions for you to consider. Please answer them to the best of your ability and recollection. The more you can tell me, the more valuable this report is likely to be for businesses like yours.

As mentioned at the time we scheduled this appointment, I will be recording our conversation to ensure the accuracy and quality of my final report. The tape will be transcribed verbatim and will be archived at the FCC. *(NOTE TO INTERVIEWER: If interviewee insists on not being recorded, turn off the machine and take notes by hand. Let the interviewee know that instead of the recording you will be making written notes of the conversation.)*

Our study, along with several others, will be used by the FCC to determine whether there are or have been market barriers for small, minority- and/or women-owned businesses and, if so, to suggest changes in the FCC rules or practices to eliminate these barriers. At the end of our interview, you will have a chance to make suggestions of your own in this regard.

Well, I'm ready to begin the interview now. Do you have any questions before we start?

To help you understand where I'll be going with the interview, here are the topics to be covered:

TOPICS TO BE COVERED

1. Characteristics of the entity(ies) and key person(s) involved in the entity(ies) (NOTE TO INTERVIEWER: *entities* are small minority- or women-owned businesses; *key persons* are the entities' principals, partners, investors and affiliates, and for publicly traded companies, the controlling shareholders and any controlling officers.)
2. Entity's capital structure and key person(s') experience in raising capital
3. Effect of FCC policies, provisions and rules on cost or availability of raising capital for auctions, lotteries and/or comparative hearings
4. Key person(s') experiences in finding about license acquisition opportunities
5. Key person(s') experiences with barriers to entry or expansion
6. Key person(s') experiences with advertising secondary market license sales transactions
7. Key person(s') reasons for participating in, withdrawing from or succeeding in the license process
8. Suggestions and recommendations of remedies and/or improvements

First, I would like to quickly review the information you previously faxed to me so I can ask the right questions later on.

- a. For the licenses that you currently have, which preferences/incentives/credits, if any, were in place at the time you acquired the licenses? Did you take advantage of all of those to which you were entitled? If not, why not?
- b. Have you ever sold or transferred any licenses? What kind? How many? When? By what means? To whom? Did you take advantage of any preferences/incentives/credits at the time of sale/transfer? If not, why not?

TOPIC 1. Entity and key person characteristics

Opening question. How was your company organized when you obtained (tried to obtain) your first license? What can you tell me about the people involved, and their preparation for being an FCC licensee?

Follow-up topics. Organizational structure and key players (by name, if possible)? Key person(s) demographics, education, employment, business, management, and industry backgrounds (especially with communications and information products and services? Previous unsuccessful attempts?

TOPIC 2. Entity's capital structure and key person(s') experience in raising capital

Opening question. How would you describe your experience in raising capital to become an FCC licensee? How prepared were you, financially, when you first attempted to become a licensee, and when you first succeeded? From where did you eventually, or do you traditionally, receive your capital support? Did you experience any discrimination on the basis of race, ethnicity or gender? Did you experience any difficulties in raising capital because of the size of your company?

Follow-up topics. Capital structure? Access to debt versus equity? Cost of capital? Access to and cost of security, collateral, and funds for deposits? Venture capital? Installment payments? Use of credit cards? Impact of up-front payments, down payments and FCC procedures?

TOPIC 3. Effect of FCC policies, provisions, rules and requirements on cost or availability of raising capital for auctions and/or non-auction activities (lotteries and/or comparative hearings)

Opening Question. How effective has the FCC and/or its policies been in helping or hindering your efforts to become a licensee? How have their policies, licensing provisions, service rules, or requirements affected you and your endeavors?

Follow-up topics. Auction and/or non-auction (lottery, comparative hearings)? Cost or availability of capital? Geographic areas to be licensed? Partitioning and/or disaggregation? Holding periods? Small business, race, or gender based provisions or preferences? Integration and/or bidding credits? Deposit and/or capital requirements? Installment or up-front payments? Distress sales? Tax certificate policy? Other policies, provisions, rules or requirements (e.g., spectrum caps, rules limiting participation to small businesses, etc.)?

TOPIC 4. Key person(s') experiences in finding out about license acquisition opportunities (primary/secondary markets)

Opening Question. How have you learned of opportunities to acquire licenses via auction, lottery and/or comparative hearings? How have you learned about opportunities to acquire licenses on the secondary market? How did you hear of your first opportunity? How did that first experience change over time? How would you or someone like you tend to learn of license acquisition opportunities now?

Follow-up topics. Role and importance of FCC public notices and outreach; other government agencies; informal personal networks; trade associations; business brokers; attorneys; bankers; venture capitalists; other financing sources; Small Business Investment Companies ("SBIC"); Specialized SBICs; incumbent licensees; advertisements in general market, minority- or gender-specific media?

TOPIC 5. Key person(s') experiences with barriers to entry or expansion

Opening Question. What can you tell us about specific barriers, impediments or roadblocks that you have faced as you have tried to become an FCC licensee (as a small, minority- or woman-owned business)? As you have tried to grow your business? What, if any, market obstacles, such as advertisers' pricing practices, have you encountered? What, if any, discrimination have you faced in your efforts (as a woman, minority or small business owner)? (NOTE TO INTERVIEWER: *If interviewee has participated or thought of participating in the auction process, ask the following question: What has been your experience with the new electronic auction bidding process?*)

Follow-up topics. Role and importance of FCC public notices and outreach; other government agencies; informal networks; trade associations; business brokers; attorneys; bankers; venture capitalists; other financing sources; SBICs; SSBICs; incumbent licensees.

TOPIC 6. Secondary market prospective license seller(s') experiences with advertising license sales/transfers

Opening Question. What means did you use to let people know that you wanted to sell or transfer a license?

Follow-up topics. Minority- or gender-specific media, associations, organizations, or networks; informal personal networks; business brokers; attorneys; bankers; venture capitalists; other financing sources; SBICs; Specialized SBICs; incumbent licensees. Are you aware of any alleged discriminatory practices (related to race, gender or size of business) on the secondary market that the FCC has been made aware of by complaint or other means? How were these complaints handled?

TOPIC 7. Key person(s') reasons for participating, withdrawing or succeeding

Opening Question. Why have you decided to participate in purchasing, selling and/or transferring FCC license(s)? What have been the most important reasons or significant factors for your participation?

Follow-up topics. When you have made decisions not to participate or to withdraw from pursuing/selling/transferring specific licenses, what were the reasons or factors at work? Reasons for succeeding? For not succeeding?

TOPIC 8. Suggestions and recommendations of remedies and/or improvements

Opening Question. Based on your experiences, what suggestions can you give us which would have made your experience in the past easier, or more fair, or which might level the playing field for citizens like yourself in the future?

Follow-up questions. How could these suggestions have helped you in acquiring, selling and/or transferring FCC licenses?

CLOSE

Thank you for time and perspectives. You've been most helpful to our study. I hope you would not mind if we called to clarify or follow up on any points we've covered today. Please feel free to contact us toll free at (877) 448-9477, ext. 29 if you think of additional points or information that may pertain or contribute to our study. Thank you again.

APPENDIX C - DEMOGRAPHIC BREAKDOWN OF INTERVIEWEES

Demographic Breakdown Of Interviewee Pool

A total of 150 licensees, unsuccessful license applicants and key market participants⁵³ were interviewed for this study of market entry barriers from 1950 to the present in broadcast and wireless licensing. The pool of interviewees was comprised of 123 licensees/unsuccessful applicants and 27 key market participants (e.g., brokers, lenders, attorneys).

The following table presents the distribution of the 123 interviewees (82%) who made up the licensee/unsuccessful applicant pool. Of the total, 91 (74%) were from the broadcast industry and 32 (26%) were from wireless. The groups are comprised as follows: (1) licenses owned by minorities (large and small businesses); (2) licenses owned by women (large and small businesses); and (3) licenses owned by white men (small businesses only).

**Demographic Breakdown of 123 Interviewees
(Out of a Total of 150)**

TYPE OF OWNERSHIP	NUMBER IN INTERVIEW POOL		
	Broadcast	Wireless	Total
African American	35	4	39
Hispanic	22	2	24
Asian American	1	5	6
Native American	2	1	3
Women	20	7	27
White men (sm. bsn. only)	11	13	24
TOTALS	91	32	123

The remaining 27 interviewees (26%) were key market participants.

⁵³See Appendix D for a complete listing of interviewees.

APPENDIX D - LIST OF INTERVIEWEES

**Federal Communications Commission
Historical Market Entry Barrier Study
List of Interviewees - Licensees**

<u>Last Name</u>	<u>First Name</u>	<u>Type of Business</u>	<u>Demographic Group *</u>
Acker	Gary	Radio	Black
Adelman	Robert	Radio/TV	Small
Alonzo	Alfredo	Radio	Hispanic
Arroyo	George	Radio	Hispanic
Bailey	Bob Carl	Radio	Black
Banks	Joyce	Radio	Woman (Black)
Barro	Mary Helen	Radio	Woman (Hispanic)
Barton	Ernesto	Radio	Hispanic
Beech	Richard	Wireless	Small
Bennet	Caressa	Wireless	Woman
Blount	Frank	Wireless	Small
Boaldin	Trent	Wireless	Small
Broz	Robert	Wireless	Small
Brunson	Dorothy	TV	Woman (Black)
Bustos	Amador	Radio	Hispanic
Byrne	Jerry	Wireless	Asian American
Caballero	Eduardo	Radio/TV	Hispanic
Camarillo	Mateo	Radio/Wireless	Hispanic
Carter	Michael	Radio	Black
Carter	Michael	Radio	Small
Charles	Merrill (Butch)	Radio	Black
Chase	Anthony	Radio/Wireless	Black
Cherry	Charles	Radio	Black
Chu	Narisa N.Y.	Wireless	Woman (Asian American)
Chung	Sejin	Wireless	Asian American
Clark	Susan	TV	Woman

**Small = White male; Woman (without racial designation) = White woman*

**Federal Communications Commission
Historical Market Entry Barrier Study
List of Interviewees – Licensees
(continued)**

<u>Last Name</u>	<u>First Name</u>	<u>Type of Business</u>	<u>Demographic Group</u>
Colon	Pablo de Jesus	Radio	Hispanic
Cook Bush	Tony	Wireless	Woman
Cornwell	W. Don	TV	Black
Correa de Garcia	Marti	TV	Hispanic
Crutchfield	Ronald	Wireless	Black
Culpepper	Ricahrd	Radio	Black
Davenport, Sr.	Ronald R.	Radio	Black
Davila	Manuel	Radio	Hispanic
Davis	Carl	Wireless	Small
Davis	Greg	Radio	Black
Davis	Willie D.	Radio	Black
DeBose	Helena	Radio	Woman (Black)
Dobbins	George	Wireless	Black
Douglas	Nancy	Wireless	Woman
Douglas	N. John	Radio	Black
Ehlinger	Phyllis	Radio	Woman
Evans	Mutter D.	Radio	Woman (Black)
Faush	Erskine	TV	Black
Ferrufino	Zenon	Radio	Hispanic
Fink	Robert K.	TV	Small
Fong	Peter W.	Wireless	Asian American
Ford	Richard	Radio	Small
Frank	Peter	Wireless	Small
Galloway	William	Radio	Black
Garcia	Joe	Radio	Hispanic
Gehman	Dale	Radio	Native American

**Federal Communications Commission
Historical Market Entry Barrier Study
List of Interviewees – Licensees
(continued)**

<u>Last Name</u>	<u>First Name</u>	<u>Type of Business</u>	<u>Demographic Group</u>
Gilliam	Art	Radio	Black
Gomez	Nelson	Radio	Hispanic
Gomez	Ed	Radio	Hispanic
Guernica	Tony	Radio/TV	Hispanic
Guerra	Belinda	Radio	Woman (Hispanic)
Harris	Leodis	Radio	Black
Hawes-Saunders	Ro-Nita	Radio	Woman (Black)
Helton	Nora	Wireless	Native American
Heyward	Isaac	Radio	Black
Hoffman	Roger	Wireless	Small
Howard	Samuel	Radio	Black
Hutton	Jeffrey	Radio	Small
Ishihara	Glenn	Wireless	Asian American
James	Ernest	Radio	Black
Kessler	Bennett	Radio	Woman
Keys	Brady, Jr.	Radio	Black
Langston	Andrew A.	Radio	Black
Laurel	Oscar M.	TV	Hispanic
Lee	Jang	Radio	Asian American
Love	Ross	Radio	Black
Lovink	Mia	Wireless	Woman
Lucas	Henry M.	Wireless	Small
Lucas	Rochelle	Wireless	Woman (Black)
Malcolm	Colin B.	Radio	Small
Marchant	Byron	Wireless	Black
Marshall, Jr.	Pluria	Radio	Black
Martin	Stuart T.	TV	Small

**Federal Communications Commission
Historical Market Entry Barrier Study
List of Interviewees – Licensees
(continued)**

<u>Last Name</u>	<u>First Name</u>	<u>Type of Business</u>	<u>Demographic Group</u>
McCollum	Amy	Radio	Woman
McCullah	Tazbah	Radio	Native American
McKinzie	Ronda	Wireless	Woman
Miller	Dennis E.	Wireless	Small
Molina	Jose	Radio/TV	Hispanic
Morgan	Tommy	Wireless	Small
Myrick	Charles	Wireless	Small
Nash	Bernadine	Radio	Woman (Black)
Neidig	Andres	Radio	Hispanic
O'Luck	Mark	Wireless	Black
Oxendine	John	TV	Black
Perres	Luis	Radio	Hispanic
Phillips	Martin	Radio	Small
Portillo	Ernesto	Radio	Hispanic
Price	Bud & Cathy	Radio	Small
Prout	Patrick	Radio	Black
Puri	Harish C.	Wireless	Asian American
Rienstra	Francine	Radio	Woman
Riordan	Robert	Wireless	Small
Roberts	Michael	TV	Black
Ruiz	Patty	TV	Woman (Hispanic)
Salva	Isabelle	Radio	Hispanic
Saunders	William	Radio	Small
Shatz	Carol	TV	Woman
Shaw	Johnny & Opal	Radio	Black

**Federal Communications Commission
Historical Market Entry Barrier Study
List of Interviewees – Licensees
(continued)**

<u>Last Name</u>	<u>First Name</u>	<u>Type of Business</u>	<u>Demographic Group</u>
Sherrell	Charles R.	Radio	Black
Simms	Raymond	Radio	Black
Spann	Pervis	Radio	Black
Spann-Cooper	Melody	Radio	Woman (Black)
Sutter	Diane	TV	Woman
Sutton	Pierre M.	Radio	Black
Terry	Mical J.	Wireless	Small
Thomas	John C.	Radio	Black
Tortolero	Carlos	Radio	Hispanic
Tupper	John B.	TV	Small
Turner	Edna	Radio/Wireless	Woman (Black)
Unger	Ruby	Radio	Woman
Valasquez	Art	Radio	Hispanic
Vega, Jr	Richard Pablo	Radio	Hispanic
Walls	Willie	Radio	Black
Waters	Nancy	Radio	Woman (Black)
Weaver-Bey	Richard	Radio	Black
Wolfe	James E., Jr.	Radio	Black
Yunis	Enrique	Wireless	Hispanic

**Federal Communications Commission
Historical Market Entry Barrier Study
List of Interviewees – Key Market Participants**

<u>Last Name</u>	<u>First Name</u>	<u>Company Name</u>	<u>Type of business</u>
Baldon	Virgil	Baldon Media Service	Consultant/Educator
Brown	Tyrone	Wiley, Rein & Fielding	Communications Attorney
Casey	Jim	Greenburg & Traurig	Communications Attorney
Cobb	Brian	Media Venture Partners	Media Broker
Dickenson	Bruce	Daniels & Associates	Media Broker
Ellis	Dwight	National Association of Broadcasters (NAB)	Industry Organization
Fontes	Brian	Cellular Telecommunications Industry Association (CTIA)	Industry Organization
Healey	Steve	Fleet National Bank	Media lender
Honig	David	Minority Media	Advocacy Group
Kalil	Frank	Kalil & Associates	Media Broker
Kilrea	Jeff	FINOVA Capital	Venture Capital
Krasnow	Erwin	Verner, Liipfert, et. al.	Communications Attorney
Lauer	John		Media Broker
Lee	Tony	Swidler Berlin Shereff	Communications Attorney
Logan	Nancy	American Women in Radio and Television (AWRT)	Advocacy Group
McNeill	Brian	Burr Egan (Alta	Investment banker
Montero	Frank	FCC-Office of Communications Business Opportunities (OCBO)	Former Director of OCBO
Parker	Rev. Everett	United Church of Christ	Advocacy Group
Perez	Benjamin	Abacus Communications	Communications Attorney
Rivera	Henry	Ginsberg Feldman & Bress	Former FCC commissioner
Schwartzman	Andrew	Media Access Project	Advocacy Group
Smith	Chic	Benton Foundation	Industry Organization
Trigg	Ms. S. Jennell	Fleischman & Walsh LLP	Communications Attorney
Wilkins	Herbert	Syncom	Venture Capitalist
Williams	Darrell A.	Telecommunications	Venture Capitalist

<u>Last Name</u>	<u>First Name</u>	<u>Company Name</u>	<u>Type of business</u>
Winston	James (Jim)	National Association of Black-Owned Broadcasters	Industry Organization
Winston	John	Federal Communications Commission	Former head of Office of Communications Business Opportunities

APPENDIX E – IVY PLANNING GROUP PROFILE

COMPANY PROFILE

Ivy Planning Group LLC is a full-service management consulting firm. We assist organizations in becoming customer-driven by focusing on strategic and tactical planning, organizational development and redesign, and diversity. Named after the principals' Ivy League educational backgrounds, Ivy supports its customers' continuous improvement processes through the formation of the organizations' strategy; translation of strategy into tactics; and implementation through training, change initiatives and consulting services.

Ivy was honored as a *Black Enterprise* magazine Year 2000 Emerging Company of the Year Finalist and by *Working Woman* magazine for Entrepreneurial Excellence. Ivy was profiled in *DreamMakers: Putting Vision & Values to Work*, a book that chronicles how leading-edge organizations are able to succeed and realize their vision and values. Ivy's President, Janet C. Smith, author of *The Diversity Action Book: 143 Things To Go Do*, was named one of "Twenty-Five Influential Minority Women in Business" by Minority Business & Professional Network, Inc.

Some of the world's most comprehensive and respected methodologies have come from the U.S. government's Reinventing Government initiative, where Ivy Planning Group has been a key player. Ivy was selected by the Federal Quality Institute to participate as a partner in the design, development, and rollout of President Clinton's National Performance Review (NPR) Reinventing Government initiative. Ivy's responsibilities included creating strategies to address valuing diversity, benchmarking, the changing role of leadership, and creating a customer-driven government. Ivy was selected for its ability to translate private sector concepts into public sector initiatives, proven planning methodology, curriculum development and training skills, and its expertise in change management.

Ivy Planning Group supports customers in the public and private sectors. Ivy's clients include the U.S. Environmental Protection Agency; the U.S. Departments of Labor, Treasury, and Justice; the U.S. Patent and Trademark Office; the U.S. Postal Service; the Federal Communications Commission; The Chase Manhattan Bank; Morgan Stanley Dean Witter & Company; IBM; Pennzoil-Quaker State; Xerox; Bell Atlantic/Verizon; United Way of America; and Special Olympics International.

Founded in 1990, Ivy takes pride in the reputation it has built with Federal agencies, Fortune 500 companies, and large non-profits. Ivy is unique in its commitment to provide senior consultants with proven methodological/process skills and experience, who also bring real experience as managers, and as change agents, in large organizations. Thus, Ivy's consultants provide practical solutions to the challenges associated with organizational change initiatives.

Ivy Planning Group provides the skills, experience and professionalism of a large management consulting firm and the flexibility, senior level access, service, and caring attitude of a small, founder-led business.

Ivy Planning Group is a minority- and woman-owned firm certified under the U.S. SBA's 8(a) program. Ivy holds GSA/MOBIS Schedule #GS-23F-9805H.

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